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# **DISPROPORTIONALITY** **&** **SIGNIFICANT DISCREPANCY**

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**ICASE**  
**February 23, 2012**

# Disproportionality Becomes Policy

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## ❑ IDEA 97:

“In the case of a determination of significant disproportionality ... provide for the review and, if appropriate, revision of policies, procedures and practices used in such identification or placement to ensure that such policies, procedures and practices comply with the requirements of this Act.” Section 618(c)



# Important Changes in IDEA 2004

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- ❑ Removed “policies, practices, and procedures” from definition of significant disproportionality
- ❑ Made disproportionality one of three monitoring priorities
- ❑ Added racial/ethnic disaggregation to discipline
- ❑ Introduced prevention as a important component



# Important Changes in IDEA 2004

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- ❑ Removed “policies, practices, and procedures” from definition
- ❑ Made disproportionality one of three monitoring priorities



# Important Changes in IDEA 2004

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- ❑ ***Significant disproportionality (Sect. 618)***
- ❑ ***Disproportionate representation due to inappropriate identification (Sect. 616)***



# Important Changes in IDEA 2004

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## ❑ ***Significant Disproportionality***

- Overall identification & in categories
- Placement in educational settings
- Disciplinary actions, including suspension and expulsion
- Requires reservation of 15% of funds for CEIS

## ❑ ***Disproportionate Representation***

“Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.”



# SIGNIFICANT DISPROPORTIONALITY VS. DISPROPORTIONATE REPRESENTATION: ACCORDING TO OSEP

	<b>SIGNIFICANT DISP.</b>	<b>DISP. REPRESENT.</b>
<b><i>TYPE OF DISPROP.</i></b>	ONLY OVER-REP	OVER- <i>AND</i> UNDER-
<b>SCOPE</b>	OVERALL, CATEGORIES, DISCIP. BY RACE/ETHNICITY, ED'L ENVIRONMTS	OVERALL, CATEGORIES; (DISCIP. BY RACE UNCLEAR)
<b>DATA REQUIRED</b>	ONLY STATISTICS	STATS. + QUAL. FINDING OF INAPPROP. I.D.
<b>REVIEW OF POLICIES, PRACTICES, PROCEDURES</b>	CONSEQUENCE OF FINDING OF SIGNIF. DISP.	PART OF DETERMINATION OF INAPP. I.D.
<b>CONSEQUENCE OF FINDING TO LEA</b>	MANDATORY RESERVATION OF FULL 15% CEIS	CORRECTIVE ACTION PLAN & MONITORING

# Issues in OSEP Interpretation

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- ❑ Under-representation
  - Study of *under-* is very recent
  - What should schools and districts do about it?
- ❑ Extensive evidence of disproportionality in educational settings
  - More important than category?
  - Not required in disproportionate rep.
- ❑ *White* disproportionality?



# Racial/Ethnic Disparities in Discipline

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## ❑ President Bush's Signing Statement:

The executive branch shall construe provisions of the Act that require taking account of *race, culture, gender, age, region, socioeconomics, ideology, secularity, and partisan politics*, including sections 612, 616, 618, 637, 663, 664, and 681 of the Individuals with Disabilities Education Act... in a manner *consistent with the First Amendment and the requirement of the Due Process Clause of the Fifth Amendment to the Constitution* to afford equal protection of the laws.



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# The Changing Status of Indicator 4b

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- ❑ Indicator 4b: Signif. discrepancy in suspensions/expulsions by race/ethnicity
- ❑ First round of monitoring SPP/APR
  - “Not required” due to concern about constitutionality
- ❑ Race neutrality still a concern
  - Acceptable measures for 4b





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# **DISPROPORTIONALITY**

**Indicator 4:** Significant Discrepancy of Suspensions/Expulsions of:  
A. Students with Disabilities; and,  
B. Students with Disabilities by Racial/Ethnic groups,  
due to inappropriate policies, procedures and practices.

**Indicator 9:** Disproportionate Representation of Racial Ethnic Groups in Special Education due to inappropriate identification.

**Indicator 10:** Disproportionate Representation of Racial Ethnic Groups in specific eligibility categories due to inappropriate identification.

# DISPROPORTIONALITY

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**Significant Disproportionality:** Statistical Racial/Ethnic Disproportionality in:

- ✓ Special Education;
- ✓ Eligibility Categories;
- ✓ Placements/Settings; and,
- ✓ Discipline (suspensions/expulsions).

*LEAs with Significant Disproportionality are required to utilize 15% of their total Part-B allocation for CEIS.*



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# Eligibility Categories

## Special Education Eligibility Categories;

- ✓ Mental Disabilities;
- ✓ Specific Learning Disabilities;
- ✓ Emotional Disabilities;
- ✓ Speech/Language Impairment;
- ✓ Autism; and,
- ✓ Other Health Impairment.



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# FFY 2010 Racial/Ethnic Groups\*

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- ✓ American Indians or Alaskan Native;
- ✓ Asian Pacific Islander;
- ✓ Black;
- ✓ Hispanic; and,
- ✓ White.

\* Beginning with the FFY 2011 (SY 11-12) there will be a change in the racial/ethnic categories.



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# FFY 2011 Racial/Ethnic Groups\*

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- ✓ American Indians or Native Alaskan;
- ✓ Asian;
- ✓ Native Hawaiian or Other Pacific Islander;
- ✓ Black or African American;
- ✓ Hispanic or Latino;
- ✓ White; and
- ✓ Two or more races.

\* Beginning with the FFY 2011 (SY 11-12) there will be a change in the racial/ethnic categories.



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# FFY 2010 Definition Changes

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OSEPs reviewed Indiana's disproportionality definitions and "Recommended" changes to assure race neutrality.

Indiana revised all of its disproportionality definitions:

- ✓ Indicator 4A and 4B – Significant Discrepancy;
- ✓ Indicators 9 and 10 – Disproportional Representation;
- ✓ Significant Disproportionality.



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# Indicator 4

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## Indicator 4A:

Indiana defines significant discrepancy in the rates of suspensions and expulsions greater than 10 days of students with disabilities as an incidence rate that is **two times or higher** than the state incidence rate for two consecutive years. Sample size (“N”) is set at a minimum of **10** students in a given population.



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# Indicator 4

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## Indicator 4B:

Indiana defines Significant Discrepancy of racial and ethnic groups (*American Indian, Asian/Pacific Islander, African American, Hispanic, White*) in discipline (suspensions/expulsions) as a risk ratio for a given racial/ethnic group that is **greater than 2.0** for two consecutive years. Sample size (“N”) is set at a minimum of **10** students in a given population.



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# Indicator 9

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## Indicator 9:

Indiana defines *disproportionate representation* (or *disproportionality*) of racial and ethnic groups in special education & related services as a risk ratio greater than 2.0 or a risk ratio less than 0.5 in special education and related services, for two consecutive years. Sample size (“N”) is set at a minimum of **30** students in a given population.



# Indicator 10

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## Indicator 10:

Indiana defines *disproportionate representation* (or *disproportionality*) of racial and ethnic groups in specific disability categories as a risk ratio greater than 2.0 or a risk ratio less than 0.5 in special education and related services, for two consecutive years. Sample size (“N”) is set at a minimum of **30** students in a given population.



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# Significant Disproportionality

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## Special Education and Eligibility Categories:

Indiana defines Significant Disproportionality of racial and ethnic groups in:

- ✓ special education identification; and,
- ✓ eligibility categories;

as a risk ratio for a given racial/ethnic group that is **greater than 2.5** in special education and related services for that group, for two consecutive years. Sample size (“N”) is set at a minimum of **30** students in a given population.



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# Significant Disproportionality

## Settings & Placement and Discipline:

Indiana defines Significant Disproportionality of racial and ethnic groups in:

- settings/placements (*less than 40%; between 40% and 79%; and separate facilities*); and,
- discipline (*out-of-school more than 10 days; out-of-school 10 days or less; in-school more than 10 days; in-school 10 days or less; and total number of removals*);

as a risk ratio for a given racial/ethnic group that is **greater than 2.5** in special education and related services for that group in special education and related services, for two consecutive years. Sample size (“N”) is set at a minimum of **10** students in a given population.



# FFY 2010 Findings Status

## Indicator 4A:

- ✓ Five LEAs were determined to have Significant Discrepancy.
- ✓ Four of the LEAs were determined to have Significant Discrepancy due to inappropriate policies procedures and practices. Findings were issued on January 31, 2012.
- ❖ No FFY 2009 Indicator 4A Findings were issued.
- ❖ One of the two LEA's with out standing FFY 2008 Finding of non-compliance corrected.



# FFY 2010 Findings Status

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## Indicator 4B:

- ✓ 13 LEAs were determined to have Significant Discrepancy.
- ✓ 2 LEAs were determined to be complainant based upon the review of their assessment, policies, procedures and practices.
- ✓ The other 11 LEAs are currently undergoing a file review to determine if the Significant Discrepancy is due to inappropriate policies, procedures and practices. The analysis and Findings (if any) will be issued late March early April.
- ❖ Five LEAs were issued FFY 2009 Findings, all five failed to correct with one year, however two have subsequently corrected.



# FFY 2010 Findings Status

## Indicator 9:

- ✓ 9 LEAs were determined to have FFY 2010 under and/or over Disproportionate Representation.
- ✓ 7 LEAs were determined to be compliant based upon the review of their assessment, policies, procedures and practices.
- ✓ The remaining 2 LEAs are currently undergoing a file review to determine if the Disproportionate Representation is due to inappropriate policies, procedures and practices. The analysis and Findings (if any) will be issued late March early April.
- ❖ No LEAs were issued FFY 2009 Indicator 9 Findings.



# FFY 2010 Findings Status

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## Indicator 10:

- ✓ 56 LEAs were determined to have under and/or over Disproportionate Representation.
- ✓ 42 LEAs were determined to be compliant based upon the review of their assessment and review of policies, procedures and practices.
- ✓ The remaining 14 LEAs are currently undergoing a file review to determine if the Disproportionate Representation is due to inappropriate policies, procedures and practices. The analysis and Findings (if any) will be issued late March early April.
- ❖ No LEAs were issued FFY 2009 Indicator 10 Findings.



**NUMBER\* OF LEAS WITH RACIAL/ETHNIC DISPROPORTIONATE  
REPRESENTATION  
BY SPEICIAL EDUCATION ELIGIBILTY CATEGORY  
(OVER AND UNDER REPRESENTATION)**

	<b>Black/ non Hispanic</b>	<b>White/ non Hispanic</b>	<b>Hispanic</b>	<b>American Indian or Alaskan Native</b>	<b>Asian or Pacific Islander</b>	<b>Total Instances by Eligibility Category</b>
<b>Cognitive Disability</b>	13 over	3 over 6 under	-	-	-	22
<b>Specific Learning Disability</b>	-	2 over 2 under	2 under	-	-	6
<b>Emotional Disability</b>	5 over	7 over 3 under	-	-	-	15
<b>Speech Language Impairment</b>	3 under	6 over 2 under	-	-	-	11
<b>Other Health Impairment</b>	1 over	10 over 2 under	-	-	-	13
<b>Autism</b>	2 under	5 over	-	-	-	7
<b>Total Instances by Race/Ethnicity</b>	24	48	2	0	0	<b>* <i>Duplicated Count</i></b>

# FFY 2011 Findings Status

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FFY 2011 data is currently being analyzed for Indicators 4, 9 and 10.

## Estimated Time Table:

- ✓ April – LEAS notified to complete/update Dispro Assessment
- ✓ Early May - Dispro Assessment Due date
- ✓ Late May – LEAS notified of File Review
- ✓ Mid June – Files due to be submitted
- ✓ July/August – Initial notification of Disproportionality based upon File Review.
- ✓ September/October – Findings Issued



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# FFY 2011 Significant Disproportionality

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Special Education, Eligibility Categories and Placements/Settings based on FFY 2012 (SY 12-13) and FFY 2011 (SY 11-12) data.

Discipline (Suspensions/Expulsion) based on FFY 2011 (SY 11-12) and 2010 (SY 10-11) data.

Estimated Time Table:

- ✓ Early May – LEAs preliminary notification
- ✓ Late May – Notification of Significant Disproportionality



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# IDEA: Required Use of CEIS Funds

## 34 CRF § 300.646(b)(2)

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- In the case of a determination of significant disproportionality based on race or ethnicity with respect to the identification, placement, or discipline of students with disabilities in an LEA, the LEA is required to reserve the maximum amount of funds (15%) to be used for CEIS for children in the LEA, particularly, but not exclusively, children in the over-identified group.



# IDEA: Coordinated Early Intervening Services (CEIS)

§ 613(f) of IDEA; 34 CRF § 300.226(a)

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CEIS is a set of coordinated services for students in kindergarten through grade 12 (*with a particular emphasis on students in K-3*) who are **not** currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.



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# Eligible Students under CEIS

§ 613(f) of IDEA; 34 CRF §

300.226(a)

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- CEIS funds may only be used to provide interventions to students who need academic or behavioral support to succeed in a general education environment.
- CEIS funds may not be used to provide interventions to students who currently identified as needing special education or related services.



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# **IDEA: Use of CEIS Funds**

## **§ 613(f) of IDEA; 34 CRF § 300.226(a)**

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CEIS funds may be used for:

- Professional development for teachers and other school staff to enable personnel to deliver scientifically based academic and behavioral interventions;
- Direct interventions, such as educational and behavioral evaluations, services and supports; and,
- Services aligned with activities funded under the Elementary and Secondary Education Act ESEA.



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# **IDEA: CEIS Reporting Requirement**

## **34 CRF § 300.226(d)(2)**

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- Each LEA that implements CEIS must report to the State on the number of children who received CEIS and the number who subsequently received special education and related services under Part B of IDEA with two years after receiving CEIS.

